

Lieben, Ivan

From: ndiamond1@gmail.com on behalf of Nancy Diamond [ndiamond@ndiamondlaw.com]
Sent: Thursday, January 09, 2014 1:06 PM
To: Zhang, Xiao
Cc: Lieben, Ivan
Subject: Re: Call tomorrow

Works for me as well. I'll assume you will call me, unless I hear otherwise: (707) 826-8540

On Thu, Jan 9, 2014 at 12:57 PM, Zhang, Xiao <Zhang.Xiao@epa.gov> wrote:

Works for me.

From: Lieben, Ivan
Sent: Thursday, January 09, 2014 12:57 PM
To: Nancy Diamond
Cc: Zhang, Xiao
Subject: RE: Call tomorrow

1:30PM? Xiao? I will only have ½ or so, but at least it is a start.

Ivan Lieben, Assistant Regional Counsel
U.S. EPA Region 9, 75 Hawthorne Street
San Francisco, CA 94105
[\(415\) 972-3914](tel:(415)972-3914)

This email, including attachments, may contain information that is confidential and/or protected by the attorney/client or other privileges.

From: ndiamond1@gmail.com [<mailto:ndiamond1@gmail.com>] **On Behalf Of** Nancy Diamond
Sent: Thursday, January 09, 2014 12:54 PM
To: Lieben, Ivan
Cc: Zhang, Xiao
Subject: Re: Call tomorrow

Any way to schedule earlier - I just got called into a brief meeting starting at 3:30. So, between now and 3:30 or 4:00 on?

On Thu, Jan 9, 2014 at 12:29 PM, Lieben, Ivan <Lieben.Ivan@epa.gov> wrote:

This afternoon works as well. 3:30 PM? The call would be just legal, you, me and Xiao Zhang, who is one of ORC's fellows who is also now working on this case. I see this as a coordinating call, with a focus on legal issues, so we can discuss any topic that seems appropriate to any of us.

Ivan Lieben, Assistant Regional Counsel
U.S. EPA Region 9, 75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3914

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From: ndiamond1@gmail.com [mailto:ndiamond1@gmail.com] **On Behalf Of** Nancy Diamond
Sent: Thursday, January 09, 2014 11:31 AM
To: Lieben, Ivan
Subject: Re: Call tomorrow

Hi Ivan,

Tomorrow is busy. I could be free for a phone call 8:30-9:30, but that is about all. Monday. I have more flexibility next week, for example Monday any time except 3-5:00. Is this a call just between the two of us - I was actually going to give you a call to go over a few things anyway. Are you free today at all? Or, did you want staff in on the call?

Also, please note my updated email address.

Thanks,

Nancy

On Thu, Jan 9, 2014 at 10:31 AM, Lieben, Ivan <Lieben.Ivan@epa.gov> wrote:

Hi Nancy –

Are you available for a call tomorrow morning to discuss Blue Lake Power? 10AM?

Thank you,

Ivan Lieben, Assistant Regional Counsel
U.S. EPA Region 9, 75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3914

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--

Nancy Diamond, Esq.
Law Offices of Nancy Diamond
822 G. Street, Suite 3
Arcata, CA 95521
ndiamond@ndiamondlaw.com
Telephone: (707) 826-8540
Facsimile: (707) 826-8541

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Zhang, Xiao

From: Zhang, Xiao
Sent: Wednesday, January 15, 2014 12:59 PM
To: 'Nancy Diamond'; Lieben, Ivan
Subject: RE: Blue Lake Power, Historical Documents

Thanks very much Nancy. We hadn't received these yet.

Xiao

From: ndiamond1@gmail.com [<mailto:ndiamond1@gmail.com>] **On Behalf Of** Nancy Diamond
Sent: Tuesday, January 14, 2014 4:22 PM
To: Lieben, Ivan; Zhang, Xiao
Subject: Blue Lake Power, Historical Documents

Ivan and Xiao,

Yesterday the District received the attached "historical" documents from Blue Lake Power. I believe that District staff is or has forwarded these to their counterparts within EPA, and perhaps BLP sent them to you as well. My apologies if this is a repeat. The documents are:

1. 1984 ATC
2. 1987 emissions correspondence
3. 1987 steam flow change correspondence

Nancy

--

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Lieben, Ivan

From: ndiamond1@gmail.com on behalf of Nancy Diamond [ndiamond@ndiamondlaw.com]
Sent: Tuesday, January 14, 2014 4:22 PM
To: Lieben, Ivan; Zhang, Xiao
Subject: Blue Lake Power, Historical Documents
Attachments: Blue Lake Power ATC 1984.pdf; Blue lake Power Steam Flow Change Correspondence 1987.pdf; Blue Lake Power CO Emissions Correspondence 1991-1997.pdf

Ivan and Xiao,

Yesterday the District received the attached "historical" documents from Blue Lake Power. I believe that District staff is or has forwarded these to their counterparts within EPA, and perhaps BLP sent them to you as well. My apologies if this is a repeat. The documents are:

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Nancy

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{In Archive} Blue Lake Power Restart

Jason Davis

to:

Manny Aquitania

07/10/2008 03:31 PM

Hide Details

From: "Jason Davis" <jdavis@ncuaqmd.org>

To: Manny Aquitania/R9/USEPA/US@EPA,

Archive: This message is being viewed in an archive.

Hello Manny,

Hope your Fourth of July holiday went well...

I believe that Rick had preliminary conversations with you about a month ago regarding the restart of a power plant which has been down for 9 plus years in our District; the primary concern being compliance with PSD. As Rick is out of the office until mid August, he has asked that I sheperd the project in his absence.

If I recall correctly, you forwarded reference material related to a couple of recent court decisions, and provided a list of what information EPA would need in order to evaluate. I've taken a look at the decisions - need list EPA info list (letter of intent to restart, and validation from air district that always included in inventory???)

Thanks for your help.

--

Jason L. Davis, Division Manager

NCUAQMD

(707) 443-3093



{In Archive} Reactivation Policy

Manny Aquitania

to:

rmartin

06/02/2008 03:37 PM

Bcc:

Manny Aquitania

Hide Details

From: Manny Aquitania/R9/USEPA/US

To: rmartin@ncuaqmd.org,

Bcc: Manny Aquitania/R9/USEPA/US

Archive: This message is being viewed in an archive.

Rick, per your inquiry last week on EPA's reactivation policy, as it would apply to shutdown units. It is covered in a number of memoranda issued by the agency. Below are a few links:

http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/ccaw_ord.pdf

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/watertwn.pdf>

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/m90678.pdf>

<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/reactivn.pdf>

Manny Aquitania
U.S. EPA, Region IX
75 Hawthorne St.
San Francisco, CA 94105
(415)972-3977
(415)947-3579 fax

Sims, Mark

From: Sims, Mark
Sent: Wednesday, January 08, 2014 3:04 PM
To: 'asteer@ncuaqmd.org'
Subject: 2nd Blue Lake Power 114
Attachments: 114-BLP-2nd-01-08-2014.PDF

Hi Al,

Attached is EPA's 2nd 114 letter to BLP. We are asking them to respond by January 31. Call if you have any questions.
Thanks –

Mark
415-972-3965



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

JAN 08 2014

CERTIFIED MAIL # 7010 2780 0000 8388 8518
RETURN RECEIPT REQUESTED

Mr. Glenn A. Zane
President
Blue Lake Power, LLC
1615 Continental Street, Suite 100
Redding, California 96001

Dear Mr. Zane:

Blue Lake Power, LLC ("BLP") operates a biomass-fired 10.2 MW net electric generating facility at 200 Taylor Way in Blue Lake, California (the "Facility"). On July 16, 2013, EPA issued a letter to BLP under authority of Section 114 of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (the "Act"). As a follow-up to that letter, and for the purpose of determining whether the BLP Facility is in compliance with its District permits, Prevention of Significant Deterioration of Air Quality ("PSD") requirements, federal New Source Performance Standards ("NSPS") requirements, federal National Emission Standards for Hazardous Air Pollutants ("NESHAP") requirements, and other requirements of the Act, BLP is hereby required, under authority of Section 114 of the Act, to submit the following information and documents to EPA:

1. Provide a copy of BLP's LLC "operating agreement," as defined in section 17701.02(s) of the California Corporations Code as:

the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in subdivision (a) of Section 17701.10. The term "operating agreement" may include, without more, an agreement of all members to organize a limited liability company pursuant to this title. . . . The term includes the agreement as amended or restated.

Portions of the "operating agreement" that are oral or implied must be provided in written form. This written representation must be a complete representation of those portions.

2. Identify each and every person and entity that operates or performs other work at the Facility who is not an employee of BLP. Describe the nature of their responsibilities and obligations and indicate when those began. Provide a copy of all documents setting forth their responsibilities and obligations, including, but not limited to, contracts and agreements.
3. Provide, in chart form, a list of all private entities which have made loans to BLP for purposes related to the Facility. For each lender, the chart shall include the following information for each loan made by the lender to BLP for purposes related to the Facility:

- a. The date of the loan;
 - b. The amount of the loan;
 - c. The amount of the loan that is backed up by collateral;
 - d. A description of the property used as collateral on the loan;
 - e. The type of loan, i.e. whether the loan is a line of credit or a purchase mortgage;
 - f. The length of repayment on the loan;
 - g. Whether the loan is interest only or principal plus interest;
 - h. The amount of BLP's monthly payments on the loan.
4. For each loan identified in response to Request #3, provide a copy the loan agreement and any addendum to the agreement.
 5. For each lender issuing a loan identified in response to Request #3, answer the following questions with a "yes" or "no" answer, and provide the additional requested information:
 - a. Has the lender or any representative(s) or employee(s) of the lender written, negotiated, or signed any contracts or agreements that BLP is party to other than the loan agreement(s) between the lender and BLP? If so, describe such participation and provide a copy of the contract or agreement.
 - b. Has the lender or any representative(s) or employee(s) of the lender participated in or managed daily operations at the Facility in any way? If so, describe such participation.
 - c. Has the lender or any representative(s) or employee(s) of the lender participated in any conference calls with BLP or any of its representative(s) or employee(s) regarding operations at or management of the Facility? If so, describe such participation.
 - d. Has the lender or any representative(s) or employee(s) of the lender participated in any way in hiring any employees at the Facility, including hiring managers or corporate officers? If so, describe such participation and the resulting hiring decisions.
 - e. Has the lender or any representative(s) or employee(s) of the lender participated in making any decisions involving environmental compliance at the Facility? If so, describe such participation.
 - f. Has the lender or any representative(s) or employee(s) of the lender participated in making any decisions regarding BLP's finances or budgeting, other than decisions regarding the loan(s) from the lender to BLP? If so, describe such participation.

BLP shall submit its response to this request postmarked no later than January 31, 2014. BLP must provide copies of all responsive documents as PDF files with Optical Character Recognition (i.e., searchable). BLP must provide all data in an Excel 2007 compatible electronic format that allows for data to be used in calculations. The documents shall be chronologically organized by each information request identified above and be BATES stamped. If BLP has no documents responsive to an individual information request, BLP must so state in its written response. BLP's response must be signed by a responsible corporate official of BLP. BLP must submit responsive documents on a disk (2 copies as CD or DVD media) along with a cover letter that includes BLP's written responses to the requests via certified mail with return receipt requested to the following address:

Ms. Kathleen H. Johnson
Director, Enforcement Division (ENF-1)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
Attn: Mark Sims (ENF-2-1)

Please be advised that under Section 113(a) of the Act, failure to provide the information required by this letter may result in an Order requiring compliance, and Order assessing an administrative penalty, or a civil action for appropriate relief. In addition, Section 113(c) of the Act provides for criminal penalties for knowingly making any false statements or omission in any response required under the Act. EPA may also seek criminal penalties from any person who knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of EPA or in relation to or contemplation of any such matter or case. See U.S.C. § 1519. The information provided by you may be used by the United States in administrative, civil, or criminal proceedings.

You may, if you desire, assert a business confidentiality claim on behalf of BLP covering part or all of the information provided to EPA in response to this letter. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b). You are advised that certain information may be made available to the public pursuant to 42 U.S.C. § 7414(c) and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to BLP.

If BLP seeks to withhold any documents based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, provide a privilege log for each document containing the following information:

1. The date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients;
2. The subject matter of the document;
3. The privilege claimed for the document and all facts supporting the claim of privilege;
4. The primary purpose(s), including any business purposes, for which the document was made;
5. The question(s) in EPA's information request that the document is responsive to; and
6. All facts contained in the document that are responsive to a question in EPA's 114 letter.

This information request is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§ 3502 (3), 3507, 3512, and 3518 (c) (1). See also 5 C.F.R. §§ 1320.3 (c), 1320.4 and 1320.6 (a). Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons. 44 U.S.C. § 3502(3)(A)(I).

If you have any questions regarding this request, please contact Mark Sims of my staff at (415) 972-3965, or have your attorney contact Ivan Lieben at (415) 972-3914 or Xiao Zhang at (415) 972-3266. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen H. Johnson". The signature is fluid and cursive, with the first name "Kathleen" being more prominent.

Kathleen H. Johnson
Director, Enforcement Division

cc: Mr. Walter Nystrom, BLP
Mr. Richard Martin, NCUAQMD

Salazar, Matt

From: Salazar, Matt
Sent: Thursday, December 05, 2013 12:32 PM
To: 'alsteer@ncuaqmd.org'
Subject: RE: Blue Lake Power, North Coast

Hi Al,

Thanks for the message. We're going to be setting up a call with you in the near future to chat about Blue Lake. Are there go/bad times early next week?

Thanks,
Matt

From: Al Steer [<mailto:alsteer@ncuaqmd.org>]
Sent: Wednesday, December 04, 2013 12:41 PM
To: Salazar, Matt
Subject: Blue Lake Power, North Coast

Hi Matt
Any movement with the BLP case?

Respectfully,

Al Steer

Al Steer
Compliance & Enforcement Manager
North Coast Unified AQMD
2300 Myrtle Avenue
Eureka, CA 95501-3327
(707) 443-3093 Ext 119
alsteer@ncuaqmd.org
<http://www.ncuaqmd.org>

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Please consider our environment before printing this email.

Salazar, Matt

From: Salazar, Matt
Sent: Monday, December 16, 2013 10:18 AM
To: 'alsteer@ncuaqmd.org'
Subject: RE: Blue Lake Power (BLP)

Hi Al,

Thanks for the heads up.

Matt

From: Al Steer [<mailto:alsteer@ncuaqmd.org>]
Sent: Friday, December 13, 2013 4:09 PM
To: Salazar, Matt
Subject: Blue Lake Power (BLP)

Hi Matt

Just a heads up that in about February, we will be issuing a new Title V permit to BLP.

Respectfully,

Al Steer

Al Steer
Compliance & Enforcement Manager
North Coast Unified AQMD
2300 Myrtle Avenue
Eureka, CA 95501-3327
(707) 443-3093 Ext 119
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Salazar, Matt

From: Salazar, Matt
Sent: Monday, December 16, 2013 12:04 PM
To: 'asteer@ncuaqmd.org'
Subject: FW: Blue Lake Power (BLP)

Hi Al,

Quick question. Do you mean a proposed Title V permit or a final one?

Thanks,
Matt

From: Salazar, Matt
Sent: Monday, December 16, 2013 10:18 AM
To: asteer@ncuaqmd.org
Subject: RE: Blue Lake Power (BLP)

Hi Al,

Thanks for the heads up.

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From: Al Steer [<mailto:asteer@ncuaqmd.org>]
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To: Salazar, Matt
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Salazar, Matt

From: Al Steer [asteer@ncuaqmd.org]
Sent: Thursday, December 05, 2013 3:22 PM
To: Salazar, Matt
Subject: Re: Blue Lake Power, North Coast

Hi Matt,

It appears we have an hour between 9:00 & 10:00 Monday morning or anytime Thursday.

On Thu, Dec 5, 2013 at 12:32 PM, Salazar, Matt <Salazar.Matt@epa.gov> wrote:

Hi Al,

Thanks for the message. We're going to be setting up a call with you in the near future to chat about Blue Lake. Are there go/bad times early next week?

Thanks,

Matt

From: Al Steer [mailto:asteer@ncuaqmd.org]
Sent: Wednesday, December 04, 2013 12:41 PM
To: Salazar, Matt
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Al Steer

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Compliance & Enforcement Manager
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(707) 443-3093 Ext 119
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Salazar, Matt

From: Al Steer [asteer@ncuaqmd.org]
Sent: Thursday, December 05, 2013 3:23 PM
To: Salazar, Matt
Subject: Re: Blue Lake Power, North Coast

Please let me know what time works for you.

On Thu, Dec 5, 2013 at 12:32 PM, Salazar, Matt <Salazar.Matt@epa.gov> wrote:

Hi Al,

Thanks for the message. We're going to be setting up a call with you in the near future to chat about Blue Lake. Are there go/bad times early next week?

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Salazar, Matt

From: Google Calendar [calendar-notification@google.com] on behalf of Al Steer [asteer@ncuaqmd.org]
Sent: Friday, December 06, 2013 1:16 PM
To: Salazar, Matt
Subject: Accepted: Discuss Blue Lake Power. North Coast/ EPA @ Fri Dec 6, 2013 1:30pm - 2pm (Al Steer)

i Folks

We'll call you at 707.443.3099 x 119

Thanks,
Matt

Fri Dec 6, 2013 1:30pm – 2pm Pacific Time

When

Where

R9-Room-1702-8-AIR_Only-Lorax/Region-9-
RESTRICTED ([map](#))

Calendar

Al Steer

Who

- salazar.matt@epa.gov
ov - organizer
- asteer@ncuaqmd.org
g - creator
- Lieben, Ivan
- Zhang, Xiao
- R9-Room-1702-8-AIR_Only-Lorax/Region-9-RESTRICTED
- Sims, Mark

Invitation from [Google Calendar](#)

You are receiving this courtesy email at the account salazar.matt@epa.gov because you are an attendee of this event.

To stop receiving future notifications for this event, decline this event. Alternatively you can sign up for a Google account at <https://www.google.com/calendar/> and control your notification settings for your entire calendar.



invite.ics

Salazar, Matt

From: Al Steer [asteer@ncuaqmd.org]
Sent: Friday, December 06, 2013 1:16 PM
To: Salazar, Matt
Subject: Re: Discuss Blue Lake Power. North Coast/ EPA

We will call you at 1:30.

On Fri, Dec 6, 2013 at 12:27 PM, Salazar, Matt <Salazar.Matt@epa.gov> wrote:
When: Friday, December 06, 2013 1:30 PM-2:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: R9-Room-1702-8-AIR_Only-Lorax/Region-9-RESTRICTED

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

Hi Folks

We'll call you at 707.443.3099 x 119

Thanks,
Matt

--

Respectfully,

Al Steer

Al Steer
Compliance & Enforcement Manager
North Coast Unified AQMD
2300 Myrtle Avenue
Eureka, CA 95501-3327
(707) 443-3093 Ext 119
alsteer@ncuaqmd.org
<http://www.ncuaqmd.org>

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Please consider our environment before printing this email.

Salazar, Matt

From: Al Steer [asteer@ncuaqmd.org]
Sent: Friday, December 13, 2013 4:09 PM
To: Salazar, Matt
Subject: Blue Lake Power (BLP)

Hi Matt

Just a heads up that in about February, we will be issuing a new Title V permit to BLP.

Respectfully,

Al Steer

Al Steer
Compliance & Enforcement Manager
North Coast Unified AQMD
2300 Myrtle Avenue
Eureka, CA 95501-3327
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Salazar, Matt

From: Al Steer [asteer@ncuaqmd.org]
Sent: Monday, December 16, 2013 1:28 PM
To: Salazar, Matt
Subject: Re: FW: Blue Lake Power (BLP)

Hi Matt,

The proposed permit will be in their hands in the next two weeks. We hope to have the final permit in their hands before the end of February.

On Mon, Dec 16, 2013 at 12:04 PM, Salazar, Matt <Salazar.Matt@epa.gov> wrote:

Hi Al,

Quick question. Do you mean a proposed Title V permit or a final one?

Thanks,

Matt

From: Salazar, Matt
Sent: Monday, December 16, 2013 10:18 AM
To: asteer@ncuaqmd.org

Subject: RE: Blue Lake Power (BLP)

Hi Al,

Thanks for the heads up.

Matt

From: Al Steer [<mailto:asteer@ncuaqmd.org>]
Sent: Friday, December 13, 2013 4:09 PM
To: Salazar, Matt
Subject: Blue Lake Power (BLP)

Hi Matt

Just a heads up that in about February, we will be issuing a new Title V permit to BLP.

Respectfully,

Al Steer

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Compliance & Enforcement Manager
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Respectfully,

Al Steer

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